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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,379	09/21/2005	Alfred Fuchs	20037.1000USWO	3356

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EXAMINER

KEEFE, STEPHEN L

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/550,379

Applicant(s)

FUCHS ET AL.

Examiner

Stephen L. Keefe

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005, amended 24 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>21 September 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show reference numeral "1" as described in the specification (page 10, paragraph [0031], line 1). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: The term "spring-action cast rods" seems to be a literal translation from German. It is misleading in that it does not reflect terminology normally used in the art for a member of low stiffness. Use a term such as "flexible cast rods" in place of "spring-action cast rods" in the abstract and the specification.

Appropriate correction is required.

Claim Objections

3. Claims 1-9 are objected to because of the following informalities:

Claim 1 is objected to because the phrase "the bearing recesses" (claim 1, line 13) lacks antecedent basis.

Claim 1 is objected to because the phrase "spring-action cast rods" (claim 1, line 10) appears to be a literal translation from German. It is misleading in that it does not reflect terminology normally used in the art for a member of low stiffness. Use a term such as "flexible cast rods" in place of "spring-action cast rods."

Claim 6 is objected to because the phrase "one of the cover the frame defines an adapted" is confusing. It appears that the phrase should read: "one of the cover and the frame is adapted."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 5, 6, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hauer (US 6,722,813 B2).

Regarding claim 1, Hauer discloses a cover arrangement comprising:

A frame 1 that can be used on a roadway and defining a plurality of openings (column 1, lines 6 and 21-22 and column 7, lines 58-63)

A cover 3 that is adapted for insertion into frame 1 (column 1, lines 23-24)

Hinge devices 30A and 30B that retain cover 3 in frame 1 and enable cover 3 to be pivoted upward in an opening direction out of frame 1 (column 8, lines 6-7 and Figure 6)

Latch device 36 which is adapted to lock the cover onto frame 1 (column 6, lines 66-67 and column 7, lines 1-3 and Figure 10)

Latch device 36 comprising flexible cast members that are integrally connected to the cover (column 8, lines 13-14 and Figure 6)

Latch device 36 defining projections 361 and 365 which can be inserted into bearing recess 14 on frame 1 (column 8, lines 16-23 and Figure 11B)

Regarding claim 4, Hauer discloses a cover arrangement comprising:

Latch device 36 constructed so that when it is subject to pressure perpendicular to the opening direction it bends sufficiently to move the entire cover 3 and remove either hinge device 30A or 30B from frame 1 (column 6, lines 58-63)

Regarding claim 5, Hauer discloses a cover arrangement comprising:

Frame 1 comprising two side edges which provide a seating or bearing surface for cover 3 when it is closed (column 8, lines 6-11 and Figure 10)

Regarding claim 6, Hauer discloses a cover arrangement comprising:

Frame 1 with component 14 adapted to receive placement of a releasing tool (column 7, 27-32 and Figure 2)

Regarding claim 7, Hauer discloses a cover arrangement comprising:

Cover 3 with components 31A and 31B defining an aperture adapted to receive placement of a releasing tool (column 7, 27-32 and Figure 6)

Regarding claim 8, Hauer discloses a cover arrangement comprising:

Cover 3 comprised of cast iron (column 8, line 58-59)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauer as applied to claim 1 above, and further in view of Dekel (US 5,181,793).

Hauer teaches all that is claimed, but does not disclose that a latch can be bent into an opened position by a force acting in the opening direction.

However, Dekel teaches that a latch comprised of two beveled members can be released by an opening force which causes the flexible beveled members to release, allowing the latch to be opened (column 3, lines 53-55 and column 3, lines 63-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the beveled latches disclosed by Hauer such that they would be forced to release into an opened position by a force acting in the opening direction as taught by Dekel to provide a latch that is "less likely to pop off or be unduly difficult to detach" (column 2, lines 8-10).

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauer as applied to claim 1 above, and further in view of Fuchs (WO 03/027400 A1).

Hauer teaches all that is claimed, but does not disclose that the hinging and latching devices are identically shaped and are disposed at identical, symmetrical sites on the cover such that the cover is adapted to open toward either of two sides as desired.

However, Fuchs teaches that rotation (hinging) and fixation (latching) devices that are identically shaped can be disposed opposite one another such that the cover of a fixedly installed arrangement can be pivoted toward whichever side the user desires (page 3, lines 2-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the beveled latches and hinges disclosed by Hauer would be installed on opposite sides of the cover, allowing opening in either direction, as taught by Fuchs to avoid costs associated with wrongly installed (one way only) covers (page 2, lines 2-5).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauer as applied to claim 1 above, and further in view of Spiess (US 5,340,232).

Hauer teaches all that is claimed, but does not disclose that the cover arrangement may be made of spherical graphite.

However, Spiess teaches that a cover arrangement may be made from spherical graphite (column 4, lines 67-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the cover arrangement of Hauer out of graphite as taught by Spiess to provide a material suitable to secure roadway openings (column 2, lines 16-19).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The art provides additional applications of hinged grating and flexible latching on roadway opening closures.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Keefe whose telephone number is 571-272-5652. The examiner can normally be reached on 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SLK


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Group 3600